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SUMMARY RECORD OF THE 52nd MEETING
(Second part) */

Held at the Palais des Nations, Geneva,
on Monday, 9 March 1987, at 3 p.m.

Chairman:	Mr. SENE	(Senegal)
Later:	Mr. EVMENOV	(Byelorussian Soviet Socialist Republic)

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*/ The summary record of the first part of the meeting is contained in document E/CN.4/1987/SR.52.

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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1987/L.9/Rev.2. L.20, L.81)

1. Mrs. CASCO (Nicaragua) said that although many delegations were in favour of draft resolution E/CN.4/1987/L.9/Rev.2, by which the Commission would take up the problem of mercenaries in the third world, some did not wish to have a special rapporteur appointed for that purpose, in spite of the decisions taken by the General Assembly and the Economic and Social Council to that effect. The sponsors of the draft resolution had considered the amendments proposed in a conciliatory spirit. They had accepted the United States amendment, as sub-amended by Argentina, but they had been unable to agree to the amendments proposed in document E/CN.4/1987/L.81. In order not to prolong the discussion fruitlessly, they requested that rule 50 of the rules of procedure should be applied and that the Commission should proceed to a vote.

2. It was so decided.

3. Mr. QUINN (Australia) proposed that in order to save time, the vote should be taken on the amendments in document E/CN.4/1987/L.81 as a whole and not paragraph by paragraph.

4. It was so decided.

5. At the request of the representative of the Gambia, a vote was taken by roll-call on the amendments in document E/CN.4/1987/L.81 to draft resolution E/CN.4/1987/L.9/Rev.2.

6. Lesotho, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Australia, Austria, Belgium, France, Germany, Federal Republic of, Ireland, Italy, Japan, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Algeria, Argentina, Bangladesh, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, China, Colombia, Congo, Costa Rica, Cyprus, Ethiopia, German Democratic Republic, Gambia, India, Iraq, Mexico, Mozambique, Nicaragua, Pakistan, Peru, Philippines, Rwanda, Senegal, Somalia, Sri Lanka, Togo, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Abstaining: Lesotho.

7. The amendments in document E/CN.4/1987/L.81 were rejected by 30 votes to 11, with 1 abstention.

8. The CHAIRMAN invited the members of the Commission to vote on draft resolution E/CN.4/1987/L.9/Rev.2

9. At the request of the representative of the Byelorussian Soviet Socialist Republic, a vote was taken by roll-call on draft resolution E/CN.4/1987/L.9/Rev.2.

10. Peru, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Bangladesh, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, China, Colombia, Congo, Costa Rica, Cyprus, Ethiopia, Gambia, German Democratic Republic, India, Iraq, Lesotho, Mexico, Mozambique, Nicaragua, Pakistan, Peru, Philippines, Senegal, Somalia, Sri Lanka, Togo, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Australia, Austria, Belgium, France, Germany, Federal Republic of, Ireland, Italy, Japan, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Rwanda.

11. Draft resolution E/CN.4/1987/L.9/Rev.2 was adopted by 30 votes to 11, with 1 abstention.

12. The CHAIRMAN invited delegations wishing to explain their vote after the vote to do so.

13. Mr. COLLIARD (France) said that his country could not be suspected of being kindly disposed towards the activities of mercenaries, which it unreservedly condemned. It was well aware of the concern among Member States which felt themselves threatened by such activites, and it had accordingly taken the initiative of submitting a draft international convention against the recruitment, use, financing and training of mercenaries in the Ad Hoc Committee established by the General Assembly to prepare such a convention. The mandate of the Ad Hoc Committee had been renewed every year by consensus, most recently by General Assembly resolution 41/80. The consensus approach to the issue of mercenaries had unfortunately been abandoned at the previous session of the Commission on Human Rights, which had adopted its resolution 1986/26 by a vote in which his delegation had abstained.

14. His delegation had voted against draft resolution E/CN.4/1987/L.9/Rev.2, which went further than the resolution adopted the previous year by requesting the Chairman to appoint a special rapporteur, whose mandate would of necessity encroach upon that of the Ad Hoc Committee established by the General Assembly. That ill-considered move was a further lamentable example of duplication in the use of the United Nations' material and human resources and would place an extra load on the Commission.

15. Mr. JOHNSON (United States of America) explained why his delegation had voted against draft resolution E/CN.4/1987/L.9/Rev.2, as it had voted against resolution 1986/26 the previous year. First, the text concerned legal and political issues that were being adequately dealt with in other United Nations forums. Secondly, it was polemical and unbalanced: some of its sponsors apparently wished to exploit the issue of mercenaries for their own purposes, forgetting it was a two-edged sword that might be turned against them.

16. Thirdly, while the United States absolutely opposed the recruitment, financing and use of mercenaries, the issue was already the subject of negotiations in the Ad Hoc Committee established by General Assembly resolution 35/48. That Committee had been meeting for several years to draft an international convention against mercenaries, it had acquired a good deal of expertise on the subject and its work was closely followed by the Sixth Committee of the General Assembly. Consideration of the same topic by the Commission was wasteful in that it both duplicated and complicated that work. It was not for the Commission to prejudge the outcome of the negotiations in the Ad Hoc Committee, which had been under way for several years. It was not for the Commission to state, as it did in the fourth preambular paragraph of the resolution, "that mercenarism is a threat to international peace and security"; under the Charter of the United Nations it was the responsibility of the Security Council to make such judgments. Fourthly, the operative part of the resolution provided for the appointment of a special rapporteur. That decision had financial implications estimated at more than $50,000 in document E/CN.4/1987/L.20. For the reasons he had just stated and in view of the current budgetary restrictions, his delegation considered it to be an extremely unnecessary and irresponsible expenditure.

17. Fifthly, although his delegation had voted against the resolution, it had appreciated the willingness of the Congo and other sponsors to incorporate in the text an amendment proposed by the United States, namely, the last preambular paragraph, which made it clear that the Commission was bearing in mind "the provisions concerning mercenaries contained in Additional Protocol I of 1977 to the Geneva Conventions of 1949". His country hoped that the special rapporteur to be appointed would work within the framework of that definition. Finally, his delegation could have joined in a consensus on draft resolution E/CN.4/1987/L.9/Rev.2 if the reasonable amendments proposed in document E/CN.4/1987/L.81 had been adopted.

18. Mr. QUINN (Australia) said that his delegation regretted having had to vote against the resolution on the reprehensible activities of mercenaries, particularly since in conjunction with the other sponsors of the amendments proposed in document E/CN.4/1987/L.81 it had made a final effort to find a reasonable compromise which would have made it possible to reach a consensus. His country was firmly opposed to mercenary activities, as was proved by its federal legislation forbidding the recruitment, financing and training of mercenaries. It was one of the few countries that had such legislation, which had indeed served as a working document for the Ad Hoc Committee established by the General Assembly on the drafting of a convention against mercenaries.

19. His delegation could not do other than oppose the resolution just adopted, firstly because it considered the General Assembly a more appropriate forum for dealing with the issue. Australia actively supported the work of the General Assembly's Ad Hoc Committee, which was currently tackling the difficult problem of definitions. Furthermore, the appointment of a special rapporteur without a precise mandate at a stage when there was no definition of the term "mercenary" - still less of "mercenarism" - was an ill-judged move, not least because it involvd undesirable expenditure at a time when United Nations resources were scarce. His delegation thought that priority should be given to the work of preparing a draft convention, which had already been going on for several years in the Ad Hoc Committee.

20. Mr. STROHAL (Austria) said that while his delegation had voted against draft resolution E/CN.4/1987/L.9/Rev.2, it thought the activities of mercenaries, whatever they might be, were totally unacceptable. The Austrian criminal code prescribed severe penalties for those who incited others to enlist in foreign armed forces or in organized armed groups; Austrians who enlisted as volunteers in foreign military units automatically lost their Austrian citizenship.

21. Nevertheless, as far as draft resolution E/CN.4/1987/L.9/Rev.2 was concerned, his delegation thought that first of all, regard must be had to the work being done by other United Nations bodies on the issue, particularly the Ad Hoc Committee established by the General Assembly in 1980. By taking up the matter, the Commission was encroaching on the Committee's field of activity. Furthermore, his delegation greatly doubted whether the appointment of a special rapporteur without a clearly defined mandate could have a positive influence on the negotiations being conducted in other bodies. His delegation had therefore proposed compromise language, which would have made it possible to adopt a resolution on such an important subject without a vote.

22. Mr. HENNESSY (Ireland) said that his country had joined Australia, Austria and Norway in proposing the amendments in document E/CN.4/1987/L.81, because it had been concerned at the prospect that a decision could be taken to study such an important issue without broad-based support. The resolution laid stress in the third, tenth, eleventh and twelfth preambular paragraphs on the situation in southern Africa. While his country saw no objection to referring to the problem of mercenaries in that region or in any other part of the world, it considered the appointment of a special rapporteur to be quite inappropriate in the circumstances. Legal questions and the problem that of the definition of mercenarism were still unresolved. His delegation greatly regretted that the Commission had been unable to base its decision on the broadest possible measure of agreement.

23. Mr. MEZZALAMA (Italy) said that the fact that his delegation had voted against the resolution just adopted should in no way be construed as support for the activities of mercenaries. Italy had repeatedly expressed its determination to make its contribution towards eliminating such activities, especially through the Ad Hoc Committee on the drafting of a convention against mercenarism established by the General Assembly. However, that position of principle had not enabled his delegation to overcome serious objections of a legal nature to the text of the resolution. In its view, it was inappropriate to appoint a special rapporteur to examine the question of the use of mercenaries as a means to violate human rights so long as an internationally recognized definition of mercenaries had not been adopted. That might prove to be a source of great confusion and would do nothing to help the special rapporteur to carry out his task. Furthermore, he had objections to the use of the word "mercenarism" to describe a new phenomenon whose implications were difficult to determine but which could certainly not be regarded as a political doctrine.

24. Mr. LUNA (Colombia), speaking in explanation of his delegation's vote, regretted that the sponsors of the amendments in document E/CN.4/1987/L.81 had asked the Commission to vote on them as a whole. If that had not been the case, his delegation would have voted in favour of paragraphs 1 and 4 of the amendments, because it firmly believed in the principle of self-determination, and it was also aware of the importance of the work being undertaken by the

Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. It had accepted the idea of appointing a special rapporteur on the understanding that his mandate would come within the framework of the provisions relating to mercenaries contained in Additional Protocol I of 1977 to the Geneva Conventions of 1949, mentioned in the last preambular paragraph of draft resolution E/CN.4/1987/L.9/Rev.2.

25. The CHAIRMAN announced that the Commission had completed its work on agenda item 9.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1987/7; E/CN.4/1987/NGO/3, 9, 16, 18, 21, 29, 40; A/41/523, 719; A/41/RES/161)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1987/2, 19, 24, 46, 48, 49, 52-54; E/CN.4/1987/NGO/1, 6, 7, 17, 23, 29, 38, 43, 44, 51, 59, 60; A/41/710, 778, 787)

26. Mr. MONTEMAYOR (Mexico), speaking on the human rights situation in Chile, said that after nearly 14 years the Commission was only too familiar with the path of oppression, suffering and death followed by the régime that had supplanted a model democracy of the American continent. Everything that had been said clearly proved that under the current régime Chile was not heading towards the re-establishment of democracy, either de facto or de jure. The Chilean authorities persisted in their violations of and attacks on the human rights and fundamental freedoms, individual and collective, recognized in international human rights instruments. Vainly seeking to give themselves legitimacy, those repressive authorities had decided to impose their law on the basis of institutions with no foundation whatever: the 1981 Constitution and the basic laws which complemented it, in particular the Anti-terrorism Act, the Act governng the functioning of political parties and the Act to restore the citizenship of Chileans who had been deprived of it. Given that legal and institutional apparatus, his country was convinced that the Chilean régime was incompatible with the expression of the will of the people and that the concept of the sovereignty of the people had no place either in the ideology or in the practice of the Chilean authorities. Various evidence reaching the Commission showed that the régime continued its reign of oppression, persecution, torture and death.

27. Perhaps talk about "opposition to the Government" and about tolerance, albeit minimal and watchful of the criticism of government action in the media might raise one's hopes and encourage one to detect an imperceptible transition towards the restoration of democracy in Chile. But all hope vanished in face of the repeated violations committed by the security forces and the police. The small areas of freedom sometimes won by the forces of democracy were quickly reduced to nothing by the Chilean authorities when they felt their control threatened.

28. Yet nothing could be more desirable than democratic restoration, without violence, of the rights and liberties of the oppressed Chilean people. This country therefore called upon the Commission to express clearly the feeling of the community of nations it represented and thus help to pave the way for the restoration of the rights and liberties of the Chilean people. For that to

happen, the Chilean authorities would have to stop putting down demonstrations and end mass arrests, abductions, torture and murder. Chile would also have to open its gates to the thousands of Chileans in forced exile; otherwise, it would be difficult for his country to accept the idea that things were improving in Chile and that slow progress was being made towards a régime of dignity and liberty. The Commission for its part should help towards the total re-establishment of a system of fundamental freedoms and scrupulous observance of the human rights of all Chileans.

29. Mr. DAOUDY (Observer for the Syrian Arab Republic), speaking on the subject of human rights in Cyprus, noted that in his report (E/CN.4/1987/19, para. 3) the Secretary-General had stated that, since his previous report on the question, the situation regarding the implementation of the Commission's resolutions which dealt with refugees and displaced persons and with changes in the demographic structure of Cyprus remained essentially unaltered. The fact that the question of human rights in Cyprus was still before the Commission and other international bodies clearly showed that a solution had to be found and that treating the situation as a fait accompli would not make the problem go away.

30. A solution called for negotiations conducted in good faith and on an equal footing between the two parties concerned, Greek and Turk, which were the inhabitants of the island and had established and recognized rights there. It was possible to call on the good offices of the Secretary-General for that purpose with a view to reaching a settlement that would provide a political solution freely accepted by both parties and based on the recognition of their fundamental and legitimate rights. That naturally implied the withdrawal of all foreign armed forces from the island. It would be recalled that in its resolution 550 (1984), the Security Council had condemned all measures aimed at the partition of Cyprus and had called upon all States not to recognize any secessionist régime, but to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus.

31. The movement of non-aligned countries, in resolutions adopted at its summit conferences, had also expressed its concern over the Cyprus problem and called for the fundamental human rights of all the country's inhabitants to be guaranteed and respected: it had condemned any attempt to change the island's demographic structure and requested the Secretary-General of the United Nations to continue the negotiations between representatives of the two parties, Greek and Turk, in order to achieve a quick and constructive solution acceptable to them both. The Commission on Human Rights should add its voice to those of the various international organizations which were calling for an end to be put to the tragedy on the basis of resolutions adopted by the United Nations. The fate of hundreds of thousands of inhabitants of the island, both Greeks and Turks, and the future of generations to come depended on it as the only way of bringing about peaceful coexistence among all Cypriots in full enjoyment of all their rights, free from foreign interference and with respect for the sovereignty, independence, territorial integrity and non-alignment of Cyprus.

32. Mr. LE DINH CAN (Observer for Viet Nam), speaking on agenda item 12, said that the right to life, the most basic human right, was currently threatened by warmongering forces, and specifically the United States of America which, despising all peace initiatives, was intensifying the arms race on land and in space, thus exposing all mankind to the risk of nuclear war.

33. As for the right of self-determination - the right of every people to live in independence and freedom and to choose freely their own path of development - that right was, sadly, ignored in nearly every region of the world. In southern Africa, the people of Namibia were deprived of it, while the African front-line States were subjected daily to grave threats and the people of South Africa continued to endure the odious apartheid policy of the racist régime in Pretoria. In the Middle East, the Palestinian people were denied their inalienable rights, including the right to return to their country and to establish their own independent and sovereign State in their national territory. The independence, sovereignty and territorial integrity of other Arab States were gravely threatened. In Asia, the Democratic Republic of Afghanistan had to defend itself in an undeclared war waged through the intermediary of mercenaries supplied with ample finance and sophisticated modern weapons. The People's Republic of Kampuchea was defending its right to have the régime of its choice in another undeclared war, against an enemy armed and financed by imperialist and reactionary forces in the idle hope of imposing on it another genocidal régime. The achievements of the People's Republic of Kampuchea over the past eight years, including its progress in human rights, were silencing calumny and confirming the unshakable will of that gallant nation to go forward on the path it had chosen.

34. In the Mediterranean, the independence, sovereignty and territorial integrity of Cyprus were threatened. In South America, the Chilean people had been subjected for years to increasingly serious human rights violations. The peoples of Central America were still suffering under the oppression of dictatorial and fascist régimes: the independence, sovereignty and territorial integrity of Nicaragua were under serious threat from foreign aggression, which was making use of the Contra mercenaries, guilty of barbarous crimes against the civilian population. Cuba had for years been the victim of threats, sabotage and foreign pressure and was currently the target of a foreign propaganda campaign to discredit it internationally in the field of human rights. But in fact, contrary to what had happened under the dictatorship, the Cuban people had since 1959 been guaranteed not only their civil and political rights but also their social, economic and other rights. The equality of all citizens was assured both in law and in fact: there were no unemployed or homeless persons and no illiteracy, there was free medical care and education for everyone, and so on. The attainments of the Cuban people since the revolution were the more remarkable in that the country had been emerging from a long period of colonization and that for 30 years it had not ceased to be exposed to foreign pressure. No honest observer could deny those facts. The alleged violations of human rights in Cuba were invented by the enemy of the Cuban people to serve its own interests.

35. The common feature of all the human rights violations in different parts of the world that he had just mentioned was that they were mainly the work of the United States of America in one way or another. Either the United States had violated the rights of those countries and peoples directly or it had done so indirectly by its active support for the apartheid régime, the zionist

régime and dictatorial and fascist régimes that without its assistance would not have been able to stay in power. The United States had no right to set itself up as a protector of human rights when the economic and social rights of its workers were not assured at home: nearly one sixth of the country's population lived below the official poverty line; there were 10 million unemployed; and 3 million were homeless. According to United Nations statistics, the United States came no higher than 49th in the world in respect of the educational level of the population. Civil and political rights were seriously violated there, thousands of people having been the victims of criminal prosecution for their activities in favour of human rights or against the Government's warmongering policy. There was racist persecution of coloured persons and Indians and the police enjoyed special immunity when they attacked people whose only crime was to be coloured.

36. Thus there was a paradoxical situation in which the champion violator of human rights assumed the right to judge how others were respecting them. By acting in that way, it was endeavouring to camouflage the serious human rights violations it had committed itself and to avoid the condemnation of world public opinion. That had enabled it to step up its interference in the affairs of States whose social and economic régime and foreign policy were not to its liking with a view to installing puppet régimes. It was the duty of the Commission on Human Rights to do everything possible to bring that dangerous and unacceptable situation to an end.

37. Mr. TUKA (Observer for Czechoslovakia), speaking on the human rights situation in Chile, said that an analysis of the information collected by the Special Rapporteur (E/CN.4/1987/7) confirmed that the situation of rights and fundamental freedoms in that country was not improving but remained very disturbing. To quote the terms used by the Special Rapporteur, the régime was not democratic (para.62): suppression of popular demonstrations, mass arrests, detention and torture by the police force under cover of the law were common there. Precise figures were given in the report.

38. Following a failed attempt on the life of the Head of State, the Chilean Government had launched a large wave of arrests and General Pinochet had shown that he was taking full advantage of the situation to eliminate even passive opponents. He had told human rights workers that those who talked about respect for human rights would be either driven from the country or imprisoned. The current crisis in the Chilean administration was affecting all sectors of social life and even the régime's traditional supporters were beginning to fear that the situation might get out of control. Yet the series of intimidatory measures and the strategy of crude terror used by the apparatus of repression were not achieving their goal. The protest movement was spreading increasingly to moderate circles. So it was surprising to witness attempts to whitewash the Chilean Government by making much of the fact that it was prepared to co-operate with the United Nations and by hailing alleged reforms which purportedly heralded a trend towards the democratization of Chilean society. All that must be regarded as hypocrisy and as a form of pressure on Chilean democrats to make them give up the struggle. It was also an insult to all the victims of terror in Chile.

39. In view of the current situation, the international community had a duty to support the Chilean people in their struggle against fascist tyranny. On that score, Czechoslovakia was not entirely satisfied with the Special Rapporteur's report. In drafting it, the Special Rapporteur had not fully described the true situation and had not sufficiently distanced himself from the information provided by the Chilean Government. That fact was the more surprising in that General Pinochet had plainly stated in July 1986 that the Constitution gave him eight years to draft the laws and eight more to implement them.

40. The systematic violation of rights and fundamental freedoms in Chile also had an international aspect, since everyone knew by whose assistance and for what purpose the fascist putsch against the legitimate Allende Government had been fomented. It was also known who were the authors of the economic models applied in Chile which had reduced 65 per cent of the population to poverty and brought 32 per cent to the poverty threshold. It was known, too, which States had geopolitical interests in the region. It was perhaps less well known that there were plans for intervention by military units stationed in the Panama Canal Zone, Puerto Rico and elsewhere in the event of the situation in Chile not developing in accordance with the scenario decided upon by the State which had not yet distanced itself from General Pinochet after helping him to take over power illegally in 1973. That fact might be less well known, but it could hardly be denied.

41. At the present time, it was of the highest importance that all the democratic forces in Chile should act together and combine their efforts with those of the international community in order to restore democracy and destroy the anti-democratic Government of Chile. Accordingly, his delegation considered that the draft resolution to be submitted to the Commission should echo the need to get rid of an arbitrary Government. The moment had come for the States which showed such concern for human rights all over the world to stop assisting a régime that had never enjoyed popular support but maintained itself in power solely through a monstrous reign of terror.

42. Mr. FAIRWEATHER (Observer for Canada), speaking on agenda item 12, referred specifically to the difficulty of making judgements in the field of human rights, which had persuaded many States to retreat behind the comfortable but ill-advised doctrine of "non-intervention". On that point, his own country's view was different: while acknowledging the difficulties, it knew the good results which came over the long term from a consistent and well-measured emphasis on the dignity of the human person and respect for international standards.

43. The work of the Commission concentrated on what might be called "generic" rights or themes. Torture, summary executions, disappearances and other phenomena were treated as types of violations of human rights, irrespective of the region or State concerned. Minority rights were of particular importance to his delegation, and it looked forward to an agreed definition of the word "minority" by the Sub-Commission, so that the protection of racial, cultural, religious, linguistic and other minorities might be given greater attention. All such themes transcended national borders and showed that the different countries represented on the Commission were united in the belief that as members of that body they had the responsibility of translating their aspirations for social justice into concrete action.

44. But when the Commission turned from "generic" items to specific situations, serious difficulties arose. Should it concentrate on statements which identified breaches of human rights by one Government or another and hope that words would have a remedial effect? Should it concentrate on procedural reforms whose adoption would serve the cause of those suffering as a result of grave abuses of human rights throughout the world? Must each delegation speak on each situation, and would failure to mention a particular country be construed as lack of concern?

45. What of the presentation of evidence? Nothing could be added, for example, to embellish the testimony of Carmen Gloria Quintana, the young Chilean who had spoken in shattering words of the tortures she had suffered. But such evidence should do more than simply serve as the basis for condemnation. It should become part of an overall process within both the Commission and the United Nations system in general for restoring human rights effectively and rapidly.

46. The difficulties the Commission faced involved two key elements: objectivity and action. With regard to objectivity, it had to be recognized that besides the violations reported to the Commission, there were others, just as egregious, which had failed to come before it for a variety of obvious reasons. How did things stand, for example, with the freedom of the press in Nicaragua after the closure of the newspaper La Prensa? What was to be done about the summary executions in Suriname? Similar problems of objectivity arose when the underlying reasons for the difficulties encountered in the human rights field were examined. What should be done, for example, when legitimate security concerns in the Korean peninsula were too often used by both countries in the area to justify the denial of fundamental human rights? It was perhaps when such difficulties were caused by war, conquest, civil insurrection and similar situations that the problem was the hardest to understand and to solve. What could be said about Indonesia's annexation of East Timor, an act which could not be condoned but which had to be accepted as a fact? How could the periodic violations of human rights attributable to army and guerrilla operations be dealt with or the growing body of evidence about Iran be effectively tackled? Thus even when objective evidence was available, there was the problem of action.

47. For a decade, the Commission had been using the institution of "special rapporteurs", who had been instrumental in gathering objective evidence, contacting the Governments concerned and making observations and recommendations on key aspects of human rights. That had been the case for Afghanistan, Chile, Iran, Guatemala and El Salvador. But political expediency and perhaps regional rivalries within the Organization were undermining the usefulness of that institution. It might be wondered whether the appointment of a special representative as opposed to a rapporteur, in the case of Guatemala, was intended to indicate a real change in the situation. His country believed that important changes had indeed taken place. But the Commission ought to give thought to the procedures that should continue to function during the crucial phase of development in Guatemala. The choice should surely not be between two extremes - either to continue scrutiny of the situation by a special representative or to drop the matter altogether. A better range of options must be considered. There should be greater

understanding among delegations that the renewal of a special rapporteur's mandate was not a punitive measure and that the contacts established in that way were as much in the interest of the Government concerned as in that of the international community.

48. International action went beyond the institutions of the Commission. Governments, of course, had various means of action available to them, such as using bilateral contacts and other forums to express concern and negotiate remedial measures, or requesting humanitarian agencies or disinterested third parties to intercede. One of the potentially most effective means of action was the Secretary-General's good offices function. In cases of serious allegations of human rights violations, the Secretary-General should use his authority to open discreet and informal lines of communication. In the case of a summary execution, for example, an intervention by telex by the Secretary-General or even by the Chairman of the Commission might result in a reprieve.

49. In his delegation's opinion, reforming the Commission's procedures would serve to further its goals and clarify the whole issue of evidence, its objectivity and form of presentation. Guidelines for special rapporteurs would help to define their mandate better and strengthen their role. There should also be an understanding on the procedure for reports, as regards their length, contents, format, conclusions and other matters. The Commission should consider establishing a link between agenda item 12 and the item on advisory services in the field of human rights. It would also be prudent to formulate rules on the appointment and removal of special rapporteurs. In short, it would be desirable to study the experience gained over the past 10 years and draw lessons from it for the years to come, so as to be able to respond to the hopes of those who were powerless, wherever they might be.

50. Mr. ROA KOURI (Observer for Cuba), speaking first on agenda item 12(a), Question of human rights in Cyprus, expressed his country's solidarity with Cyprus. The friendship between the two peoples and the two Governments went back to the foundation of the movement of non-aligned countries at Belgrade in 1971. Cuba and Cyprus were two islands which had had to struggle and were still struggling to preserve their independence, sovereignty and territorial integrity. As a member of the non-aligned contact group on Cyprus, he had personally witnessed the tragedy suffered by that Mediterranean people. The question of Cyprus must be resolved peacefully on the basis of negotiations between the Turkish Cypriot and Greek Cypriot communities: accordingly, his country had supported the initiatives taken in the matter by the Secretary-General of the United Nations. It hoped that the international community would help to put an end to the current tragedy of the Cypriots and that it would be possible to guarantee the unity, territorial integrity and non-alignment of Cyprus, without foreign interference and with complete respect for the human rights and fundamental freedoms of all the inhabitants.

51. With regard to agenda item 5 (Question of human rights in Chile), it could not be said that the situation of the Chilean people had improved after more than 13 years of institutionalized repression by General Pinochet. The régime's attempts to improve the face of tyranny ran up against the stubborn facts of the situation, which bore witness to the repression and violence

exercised against the Chilean people. The burning alive of defenceless people like Rodrigo Rojas, who had died as a result, and Carmen Gloria Quintana, who had survived and given her touching testimony to the Commission, was irrefutable proof of the racist frenzy of the dictatorship. And that was but one example.

52. The mounting repression coincided with mass demonstrations in favour of a return to democracy. Those demonstrations had scared Pinochet, who was doing his utmost to give an appearance of legality to his régime with a caricature constitution, imposed arbitrarily and intended to prolong the tyranny beyond 1989. During recent months, under the state of siege, there had been a great increase in murders of political opponents, administrative harassment and action by "military justice" against trade-union and political leaders, detentions of indefinite length, torture and mistreatment of prisoners, searches, etc.

53. But behind all that, there was imperialism: only the political, economic and military support of the United States kept Pinochet in place. The evidence was irrefutable. At the Commission's thirty-third session, the United States delegation had said on the subject of human rights in Chile that it profoundly regretted the role that some United States agencies, officials and private groups had played in the overthrow of the previous Chilean Government in the coup d'état of 11 September 1973 (E/CN.4/SR.1420, para.20).

54. Everyone knew who had overthrown the constitutional and democratically elected Government of President Salvador Allende and consequently who was responsible for the wave of terror and crime which had been unleashed immediately afterwards against the mass of the people and was still continuing. Chile was clearly not the only case of interference by the United States in the internal affairs of a country in the region: there was a long list and it was well known. But the intervention in Chile was a good illustration of the hypocrisy of the United States Government and its professed adherence to the principles of representative democracy, whose champion it claimed to be; the Allende Government had precisely been the result of free elections and reflected the will of the majority of the people. It had been supplanted by a fascist tyranny. The policy of the United States Government had been evident: it had overthrown the democratic Government and upheld the illegal régime which had gone on to ride roughshod over the constitution and the laws.

55. The hypocrisy of the United States in regard to human rights had recently been demonstrated once again: in 1986, it had put on a propaganda show in the Commission by coming forward as the sponsor of the draft resolution on Chile and taking pains to display a sudden and unaccustomed interest in the human rights situation in that country. But its true intentions had soon been revealed: at the forty-first session of the General Assembly, the United States delegation had been among those which had voted against the resolution adopted by a large majority of Member States. That attitude was of a piece with the policy followed by the present United States Government both at home and abroad - it was a policy of supporting the most reactionary causes and the most anti-popular, repressive and racist régimes. Chile was no exception. In conclusion his delegation wished to reaffirm its belief that

the Chilean people would wish that they would return to that democracy of the people and peaceful life which had always been typical of them, to fraternal co-existence with the countries of America and to President Allende's policy of non-alignment.

56. Mr. MTANGO (Observer for the United Republic of Tanzania), speaking on agenda item 12(a), noted that Cyprus, like Tanzania, was a member of both the non-aligned movement and the Commonwealth. His country endorsed the decision on Cyprus taken by the non-aligned countries at Harare in September 1986, which contained four main points. The movement supported the independence, sovereignty, territorial integrity, unity and non-alignment of Cyprus; it deplored the unilateral declaration of independence by the Turkish Cypriot leaders on 15 November 1983, and also the secessionist and other illegal acts, including the so-called referendum of May 1985; lastly, the movement declared its concern at the fact that part of Cyprus was still under foreign occupation and called for the immediate withdrawal of the foreign forces. His country hoped that the countries and authorities concerned would respond to the appeal by the non-aligned movement, that negotiations would continue and that a peaceful solution would be found to the Cyprus problem with the aid and support of the United Nations.

57. Mr. LEBAKIN (Observer for the Ukrainian Soviet Socialist Republic), speaking on agenda item 5, said that the events of 1973 in Chile had turned into a real tragedy for the Chilean people and one which still continued. The objective of the putsch, organized from outside, which had cost the lives of about 30,000 Chilean patriots, had been to halt the revolutionary process and the radical changes being introduced by Chile in the economic sector. The policy of the Government of National Unity and the nationalization of the copper industry had been the reason for the anti-Allende conspiracy.

58. Those facts should be borne in mind, because it was solely through the support of those who once again controlled Chile's extremely rich copper mines that General Pinochet maintained himself in power. It was also to enable North American business circles to retain their hold on the Chilean economy that the efforts of the international community to end the gross and brutal violations of human rights in Chile had been checked. That explained the circumspection with which General Pinochet was condemned. Recently, the United States delegation had gone so far as to introduce carefully tempered resolutions of its own calling for the restoration of human rights. That change of tactics spoke for itself. The current happenings in Chile showed that in spite of brutal reprisals, the demonstrations of the popular masses against the fascist régime were gaining ground and its fall could be foreseen. Accordingly, it was becoming essential to back off from General Pinochet and arrange the dictator's exit if possible without disturbance and without doing damage to American interests in Chile.

59. In his report, although it was carefully worded, the Special Rapporteur left no doubt about the fact that the human rights situation in Chile was still unsatisfactory. The state of siege had been lifted in September 1986 and other moves towards "democratization" had been announced, in a spirit of overt demagogy, since the repressive laws remained in force. The Special Rapporteur himself acknowledged that the régime in power in Chile was not democratic (E/CN.4/1987/7, para. 62) and acted in accordance with its own

values, which by their very nature, were contrary to the effective protection of human rights. The report mentioned many cases of persistent violations of human rights: violence, arrests, intimidation and murder. The media were constantly reporting facts that denoted a tightening of repression and the use of sophisticated forms of torture. The army and the security service imprisoned opponents and expelled foreign journalists and even churchmen.

60. In the economic field, Pinochet's anti-nationalist policy had led to an even more unjust distribution of national income to the detriment of the poorest classes, bringing with it unemployment and stagnant production. For many Chileans, going hungry was an everyday experience. It was clear that the grossest violations of all rights - civil and political rights and social and economic rights - had been elevated to the status of government policy. The situation demanded that the Commission should not relax its attention: it should have the question of human rights in Chile as a separate agenda item with high priority. It was also essential to renew the mandate of the Special Rapporteur.

61. Mr. JAFAR (Observer for Saudi Arabia) said that through the codification of international law and humanitarian practices relating to the protection of civilians in occupied territory, there were now clear rules about the responsibility of occupying Powers with respect to civilians, lands and property and to human rights. Reports submitted to the Commission of Human Rights showed that the Israeli occupation authorities, by their violation of the principles and practices in question, had gone beyond open aggression against the Palestinians, their possessions and their homeland. The Palestinians were subjected to expulsion wherever they were and their camps in Lebanon were bombed and destroyed. All that was done to achieve objectives based on racism and long-term expansionism, the sole aim being to blot out the very name of Palestine and annihilate the Palestinian identity for ever.

62. The mere fact that the Israeli occupation authorities were present on one third of Lebanese territory was in itself a denial of the rights and liberties of Lebanese civilians. The Commission on Human Rights therefore had a duty to inquire into cases of human rights violations in occupied Lebanese territory, because the Israeli authorities were persisting in their behaviour in defiance of the principles of the Universal Declaration of Human Rights, the Geneva Conventions and United Nations resolutions which represented the will of the international community. The present unhappy fate of Lebanon, including the tragedy of the Palestinians in Beirut, was only one consequence of the continued Israeli military presence in the country. Israel openly persisted in sowing discord among the various Lebanese factions and its interference in the internal affairs of Lebanon was one more proof of its expansionist intentions and aggressive aims. His own and other Arab countries were co-operating with the Lebanese Government and endeavouring to assist it to restore a normal situation. Saudi Arabia would continue to spare no effort to that end, but stability would not be achieved in Lebanon until the Israeli occupation in all its forms was brought to an end.

63. The situation in Afghanistan was among the acute problems which required a quick and lasting solution. Human rights in Afghanistan continued to be a matter of very grave concern both because of the expulsions and cruel treatment to which Afghan civilians were subjected and because of the economic and social difficulties of the 5 million refugees. The Afghan problem was

entering into its seventh year and the Afghan Mujaheddin were fighting fiercely to defend their religion, their country and their rights. His country was committed to the position adopted by the Organization of the Islamic Conference, which called for the withdrawal of Soviet forces and the granting of self-determination to the Afghans. Saudi Arabia was also following the efforts of the Secretary-General and considered that any initiative in that field should take account of the Afghan people's rights and their legitimate claims.

64. Lastly, he referred to the position of the Muslim minorities in certain States where they did not enjoy the political and religious rights enshrined in both international and national law. In particular, he hoped that the Commission would consider the case of the Muslims in Bulgaria and the attempts to deprive them of their fundamental rights and destroy their Muslim identity. They must be guaranteed freedom to practise their religion and the enjoyment of complete liberty and equal rights within the State and under the law.

65. Mr. MALDONADO (Observer for Honduras), speaking on agenda item 12, about the human rights situation in his country, said that it had a long tradition of respect for human rights, with a single break in 1982-1983, when a small group of soldiers had attempted to establish a régime that suppressed the fundamental freedoms. The situation had now been rectified, and Honduras was advancing towards the full guarantee of human rights to which its people were accustomed. As soon as the constitutionally elected President had been installed in office, he had declared that human rights would always be respected in Honduras and had voluntarily accepted the jurisdiction of the Inter-American Court of Human Rights.

66. Recently, an Inter-institutional Committee on Human Rights had been set up in Honduras. That Committee was chaired by the Procurator-General and composed of representatives of the Supreme Court of Justice, the Congress, the Ministry of Justice, the armed forces and the Secretariat for Foreign Affairs. Complaints addressed to international bodies about alleged violations of human rights would be received by the Secretariat for Foreign Affairs, which would pass them on to the Procurator-General so that he could make the necessary inquiries and inform the Committee of the results. On the basis of reports by members of the Committee and the results of the inquiry by the Procurator-General, the Secretariat for Foreign Affairs would send the dossier on the case to the international bodies. At the domestic level, anyone who felt that his rights had been violated could lodge a complaint with the Procurator-General, who would immediately take the necessary measures. The inter-institutional Committee did not seek to encroach in any way on the work of non-governmental organizations in that field or to take their place. On the contrary, it would co-operate with them.

67. A few facts would suffice to show that Honduras respected human rights, as had been recognized by the international community. If that were not the case, it would be hard to see why it should have become a country of asylum for refugees: it had received over 80,000 refugees from neighbouring countries, which was among the highest figures for any Latin american country. On the other hand, no Honduran was a refugee or an exile in another country. The reports of the International Committee of the Red Cross made no mention of visits to detention centres or prisons in Honduras to talk to political prisoners, for the simple reason that there were none. The death

penalty had been abolished over 40 years before and young Hondurans had never experienced a state of siege or the suspension of personal guarantees. Complete freedom of expression had long been recognized, particularly for the information media. Similarly, freedom of association had always been enjoyed in Honduras, and workers' and peasants' organizations played an important part in the political process. They were regularly consulted by the Government on questions of concern to them. They also helped to monitor the way the Executive exercised its power.

68. All those facts, which spoke louder than words, showed clearly that in spite of the problems which were natural in all developing countries, Honduras was firmly committed to the path of permanent respect for human rights, since it was convinced that was the only way to strengthen democracy, ideological pluralism and the well-being of peoples.

69. Mr. ORNEKOL (Observer for Turkey) asked for the floor under agenda item 12(a), on the grounds that Turkey was a State directly concerned by the discussion on the situation in Cyprus and that the Greek Cypriot party had taken advantage of the absence of the other party to the conflict to speak in the debate.

70. The CHAIRMAN said that the Turkish delegation had already used up the time allowed for observers to speak on agenda item 12(a). An observer could speak if the State he represented was mentioned by name in a statement or a document, which was not the case. Since the discussion on agenda items 5 and 12 had been concluded, delegations could now exercise their right of reply.

71. Mrs. Poc MONA (Observer for Democratic Kampuchea) said that she wished to reply to the representative of the aggressors and occupiers of her country in order to stress a few basic points. In its statement, Viet Nam had once more shown its complete contempt for the Commission by shamelessly uttering gross untruths, with the aim of perpetuating its occupation of Kampuchea. Viet Nam was conducting a frantic propaganda campaign to glorify the puppet régime in Phnom Penh and never ceased praising the rebirth of what it called the "People's Republic of Kampuchea", which would collapse like a pack of cards if the Vietnamese troops withdrew from the country.

72. How could the representative of the aggressor speak in the name of the Kampuchean people, whom its troops were massacring? His fine words full of kindness for them could not conceal the daily crimes of the occupying forces, which mercilessly attacked not only the Khmer population living in Kampuchea but also the defenceless refugees living in camps in Thailand. How many had perished whose sole crime was not to accept the occupation of their country!

73. Whatever Viet Nam said, the basic cause of the problem in Kampuchea was invasion and occupation. When the authorities ceased to inflict suffering on the Kampuchean people and also on the Vietnamese people, one of the most wretched nations on earth, then and then only could Viet Nam speak of human rights, of the right to life and to self-determination. However, the Commission, like the General Assembly, had long known what to believe, since they had by successive votes called on the aggressor to put an end to the extermination and withdraw its troops. It was high time that Viet Nam came to its senses and ceased its policy of aggression and expansion not only in Kampuchea but also in Laos.

74. Mr. TOWPIK (Observer for Poland) said he wished to make some remarks in reply to the statement by the United States delegation. That delegation had said that in Poland, the exercise of the right to freedom of association was still unsatisfactory as far as trade unions were concerned. The total number of persons belonging to the new Polish trade-union organizations was 7 million, a figure which, as a percentage of the total active population, was considerably higher than in the United States. It should also be pointed out that the new trade-union organizations were acquiring more and more importance and independence in Polish economic, social and political life.

75. Secondly, there were no longer any political prisoners in Poland, since they had been released six months previously under a general amnesty. He therefore did not understand why the United States delegation had called for all political prisoners to be released, unless it was referring to a few persons convicted and imprisoned for acts of terrorism. But the treatment of such cases under criminal law in the United States could not be very different from Polish practice.

76. Thirdly, his delegation completely disagreed with the United States delegation on its ideas about the role of the Commission on Human Rights, especially the discussion under agenda item 12. His delegation had given its views and had noted those of the United States delegation, by which it had not yet been convinced.

77. Mr. ORNEKOL (Observer for Turkey) said he was speaking in reply to the statement by the Greek Cypriot party on the situation in Cyprus, since the fashion in which that party had presented the matter gave the impression that the Cyprus question was not a problem to be solved but something to be constantly exploited for purposes of lying propaganda. As in all cases of racial hostility, the problem was approached in an emotional rather than a logical way and presented as if it dated from 1974, the tragic events of the previous decade being deliberately ignored.

78. The problem had not started in 1974, but in December 1963, with a concerted and carefully planned attack by the Greek Cypriot administration against the right to life of the Turkish people of Cyprus. The declared aim of the attack was to annihilate the Turkish Cypriots totally, as Makarios had stated in 1962.

79. Mr. NICOLAIDES (Cyprus), speaking on a point of order, protested against the term "Greek Cypriot administration" used by the Observer for Turkey to designate a Government, which, according to the established rules, should be called by its name.

80. Mr. ORNEKOL (Observer for Turkey), continuing his statement, said that the aim of the infamous "Akritas Plan" (quoted in document A/33/115 of 30 May 1978) had been to spread panic among the Turks, strike at once, break their resistance and act so fast that no outside guarantee or intervention could help them.

81. As a result of the operation in December 1963, 25,000 Turkish Cypriots had been forcibly evicted from 103 villages and became homeless refugees; 400 had been killed and 203 had disappeared. Thousands of houses had been destroyed, looted and burned. According to the memoirs of Mr. George Ball, at

that time Deputy Secretary of State of the United States, the basic aim of Makarios had been to prevent any intervention by Turkey, so that he and his fellow-countrymen could happily continue to slaughter the Turkish Cypriots.

82. Even the periodic reports of the Secretary-General of the United Nations, though written in diplomatic and measured language, were sufficient to indicate the extent of the sufferings endured for a decade by the Turkish Cypriots at the hands of the Greek Cypriots: houses destroyed or damaged by the thousand, a very high unemployment rate, many displaced persons, refugees living in precarious conditions, restrictions on the freedom of movement of Turkish Cypriots and attempts by the Cypriot Government to impose a political solution through economic pressure. Those were only a few examples, drawn from the reports, of the ordeals to which the Turkish Cypriots had been subjected and which the Greek party conveniently forgot.

83. As if that was not enough, a military coup, inspired and directed by the Athens junta, had taken place on 15 July 1974, with the avowed object of annexing the island to mainland Greece. The plan of Ionnides, the strong man of the Greek army at the time, had been, as he had told Makarios, to eliminate the Turkish Cypriots completely. Was it conceivable under those conditions that a Government which had treaty rights and obligations as a guarantor of the Constitution, could remain a passive spectator of events while its fellow-countrymen were exposed to an obvious danger of extermination? What the Greek party termed an invasion had been a necessary intervention to save human lives and also a treaty obligation in the circumstances of the time.

84. Such was the human rights record of those who appeared before the Commission as victims of human rights violations. Behind the Cyprus drama there lay the idle Greek dream of making Cyprus a wholly Greek State, pending the achievement of the final goal, Enosis, the annexation of the island to mainland Greece. By seeking to accuse Turkey in international forums, the Greek party aimed at eliminating the main obstacle to the realization of its dream and restoring the very favourable conditions it had enjoyed before 1974 as sole master of the island. Because they could no longer dominate the Turkish Cypriots by violence and persecution, the Greek Cypriots were asking for the re-establishment of a situation that would allow them to go on violating the human rights of the Turkish Cypriots undisturbed.

85. It was high time that the Greek Cypriots grasped that the best service they could do the Cypriot people as a whole was to give up that dream of a final solution which would make them the sole masters of Cyprus. The most recent proposals by the Secretary-General of the United Nations provided a satisfactory framework, and advantage should be taken of the opportunity they offered to arrive at an acceptable settlement of all the existing problems. It was regrettable that, yielding to the desire to be sole masters of the island again, the Greek Cypriots had once more displayed a negative attitude towards the Secretary-General's draft outline agreement. A solution would be very easy once the Greek Cypriots acknowledged that Cyprus did not belong to them alone and understood that the Turkish Cypriots had the same rights on the island and were not disposed to go through what they had suffered up to 1974 all over again.

The meeting rose at 9 p.m.